

THE HARMAN FIRM, PC

ATTORNEYS & COUNSELORS AT LAW

200 WEST 57th STREET, SUITE 900, NEW YORK, NEW YORK 10019

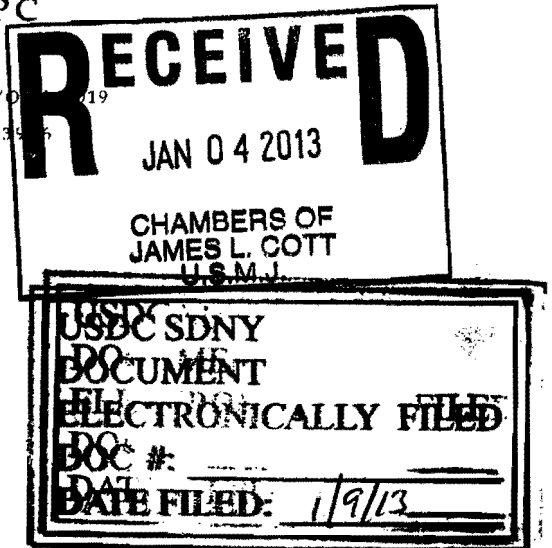
TELEPHONE 212 425 2600 FAX 212 202 3956

WWW.THEHARMANFIRM.COM

January 4, 2013

VIA FACSIMILE (212) 805-7990

Magistrate Judge James L. Cott
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 18-A
New York, New York 10007



Re: *Hernandez, et al. v. The Fresh Diet, Inc., et al.*, 12 CV 4339 (ALC)(JLC)

Dear Judge Cott:

We represent the Plaintiffs in the above-referenced wage and hour action and write in regards to the list of all of Defendants' delivery drivers who provided meal delivery services within the New York City Tri-State metropolitan area within the past three (3) years ("Collective Action List").

On December 21, 2012, Defendants have forwarded to our office a revised Collective Action List. This list updated contact information for four (4) individuals and identified thirty-eight (38) other potential opt-in Plaintiffs. The first version of this list was sent to our office on November 28, 2012 and contained sixty-one (61) individuals.

In an Order dated November 21, 2012, the Court has directed that potential opt-in Plaintiffs be provided a sixty-day opt-in period from the date of mailing of the notice. This opt-in period is currently scheduled to expire on January 29, 2013. If Plaintiffs were to send the notice to these new individuals today, the potential opt-ins Plaintiffs would have only twenty-five (25) days to join the lawsuit, instead of the sixty days period that was originally ordered. Plaintiffs' position is that it would be unfair for these newly identified individuals to have less than sixty days to join the lawsuit, just because they were not included in Defendants' first Collective Action List.

Accordingly, we respectfully request that the Court orders a new sixty days opt in period for the individuals who did not already opt into the lawsuit and who (i) were previously identified by Defendants but whose address has been updated in Defendants' revised list, or (ii) who were not identified in Defendants' November 28 list. A list of these individuals is attached hereto as *Exhibit A*.

Plaintiffs contacted Defendants who advised that they consented to this request, but only provided that it apply solely to the additional individuals in Ex. A, and that this new sixty-day

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opt-in period start on December 21, 2012 (the day on which Defendants forwarded the revised Collective Action List to Plaintiffs).

Finally, Plaintiffs hereby inform the Court that they intend to move for class action certification under Fed. R. Civ. P. 23. We are currently discussing this issue with Defendants before it is formally brought before the Court.

Thank you for your time and attention to this matter.

Respectfully submitted,
THE HARMAN FIRM, PC

/s/
Walker G. Harman, Jr.

CC: Jeff Meyer, Esq. (via email, jmeyer@kdvglaw.com)
Yale Pollack, Esq. (via email ypollack@kdvglaw.com)
Peter J. Andrews (via email)

The list of individuals
set forth in Appendix A
shall have 60 days from
December 21, 2012 to
opt-in to this lawsuit.

SO ORDERED:


Hon. James L. Cott
United States Magistrate Judge

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EXHIBIT A

List of individuals who did not already opt into the lawsuit and who:

- (i) were previously identified by Defendants but whose address has been updated in Defendants' revised list, or**
(ii) who were not identified in Defendants' November 28 list

(i) Individuals whose address has been updated:

Barnett, Antione Tony
Deandre, Harris L

Folkes, Christopher K
Nazrul, Islam

(ii) Individuals who were not identified in Defendants' November 28 list:

Alexander, Banite
Au, Vinh V
Barrett, Michael A
Bermejo, Maria
Bonillia, Gladys M
Castillo, Nelson
Castro, Omar R
Cines, Keyla
Crespo, Jessica Y
Cynthia, Fincher M
Dionicio, Julio
Ezequiel, Ortiz
Figeroux, David
Freeman, Anthony K
Gorrin, Daniel J
Justiniano, Emanuel
Khalil, Mohammed
Konate, Bengaly

Lau, Alexander
Ledezma, Christian N
Li And Lyn Inc
Lopez, Joseph A
Ore, Oscar
Patrick, Paul H
Ram, Brijesh T
Rivas, Reginald
Rodriguez, Michael J
Rosado, Jose
Rose, Alquon
Rose, Brandon
Soohoo, Wendy
Spence, Andrew O
Tavares, Maria
William, Still P